

**OPEN VIDEO SYSTEM  
SUPPLEMENTAL ANSWER**

**ATTENTION:  
CABLE SERVICES BUREAU**

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Time Warner, Complainant,	)	
	)	DA 97-2333
v.	)	
	)	
RCN-BeCoCom, L.L.C., Defendant	)	

**SUPPLEMENTAL ANSWER OF RCN-BECOCOM, L.L.C.  
TO OPEN VIDEO SYSTEM COMPLAINT**

Warren Anthony Fitch  
William L. Fishman  
Lawrence A. Walke  
SWIDLER & BERLIN, CHTD.  
3000 K Street, N.W.  
Washington, D.C. 20007  
(202) 424-7500

Attorneys for

RCN-BeCoCom, L.L.C.

Dated: January 16, 1998

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
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Time Warner, Complainant,	)	
	)	DA 97-2333
v.	)	
	)	
RCN-BeCoCom, L.L.C., Defendant	)	

**SUPPLEMENTAL ANSWER**

RCN-BeCoCom, L.L.C. ("RCN-BeCoCom"), by undersigned counsel, respectfully submits this Supplemental Answer to the Reply of Time Warner Cable ("Time Warner") filed in the above-captioned matter.<sup>1</sup> RCN-BeCoCom recognizes that the Commission's rules governing the resolution of open video system ("OVS") disputes do not routinely permit the Defendant in an OVS Complaint to respond to the Complainant's Reply.<sup>2</sup> In its Reply, however, Time Warner relies heavily on events that occurred subsequent to RCN-BeCoCom's filing of its Answer. Accordingly, as described in the attached Motion for Leave to File Supplemental Answer, this responsive pleading is required to allow RCN-BeCoCom an opportunity to address the new circumstances and arguments raised in Time Warner's Reply and to allow the Cable Services Bureau to resolve this proceeding on the most complete record possible.

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<sup>1</sup> Reply to Answer to Open Video System Complaint, Time Warner Cable, filed December 29, 1997 ("Time Warner Reply").

<sup>2</sup> 47 C.F.R. § 1513(h).

## **SUMMARY**

Since the Commission's certification on February 27, 1997, RCN-BeCoCom has been engaged in the daunting task of establishing a regional open video system ("OVS") in the Boston metropolitan area as a facilities-based competitor to the entrenched cable monopolists. The OVS contemplated by RCN-BeCoCom will be one of the first and most ambitious such systems in the country, fulfilling Congressional intent in the Telecommunications Act of 1996 to foster facilities-based competition in the video marketplace. Contrary to this intent, two potential competitors of RCN-BeCoCom's OVS, Time Warner Cable Co. and Cablevision of Boston, have attempted to impede or even to terminate RCN-BeCoCom's efforts to establish its OVS system. In the guise of interested video programming provider customers, both cable companies have filed requests with the Commission for access to RCN-BeCoCom's highly confidential and competitively sensitive data concerning, among other things, the construction of the OVS. As described in RCN-BeCoCom's responses to the cable operators' filings, however, neither operator is entitled to the requested information because each is an "in-region" cable system and as such may be denied access to the OVS under the Commission's rules.

In a drumbeat of pleadings which began in June 1997, Time Warner and Cablevision have attacked RCN-BeCoCom on a variety of grounds. They assert that RCN-BeCoCom somehow is to be faulted for entering into local cable franchise agreements with certain of the communities located within its certified OVS region. However, as Time Warner and Cablevision are well aware, local circumstances in certain municipalities have made it necessary for RCN-BeCoCom to seek a franchise. Nevertheless, RCN-BeCoCom's original intent to establish a regional OVS in the Boston area remains, and RCN-BeCoCom expects to do so even if it proceeds in certain communities as a

franchisee. There is no merit to the cable operators' requests for internal data or their calls for revocation of RCN-BeCoCom's OVS certification. Rather, the Commission should recognize the competitive, economic and regulatory realities faced in the establishment of a facilities-based competitor to these incumbent cable monopolies and affirm a policy of flexibility with respect to OVS operators.

#### **I. Background<sup>3</sup>**

1. This case involves the efforts of Time Warner, an entrenched cable monopoly in numerous communities in the Boston metropolitan area, to block competition in many of these communities and most immediately in Somerville, Massachusetts. Time Warner long held the only cable franchise to provide service in Somerville until the town awarded a competitive franchise to RCN-BeCoCom last month. The gist of Time Warner's Complaint is that RCN-BeCoCom improperly denied Time Warner's request for internal, highly confidential and proprietary data concerning RCN-BeCoCom's OVS. In its Answer to Time Warner's Complaint, RCN-BeCoCom noted that Time Warner, as the operator of numerous in-region cable systems, was not entitled under the Commission's rules to access the OVS and therefore, *a fortiori*, was not entitled to competitively sensitive data concerning RCN-BeCoCom's technical and business plan for the OVS.

2. Time Warner contends, *inter alia*, that RCN-BeCoCom does not actually intend to operate an OVS system in many of the communities listed in its certification application, but instead is using the Commission's OVS certification to somehow prompt municipalities to enter into local

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<sup>3</sup> A more complete description of the background to this controversy is set forth in RCN-BeCoCom's Answer at 3-10.

cable franchise negotiations.<sup>4</sup> For example, Time Warner in its Complaint stated that in Somerville and certain other communities RCN-BeCoCom entered into cable franchise negotiations and signed only an interim OVS agreement.<sup>5</sup> In its Answer, RCN-BeCoCom readily acknowledged that it was in the midst of negotiating local franchises with certain communities within the OVS region.<sup>6</sup> RCN-BeCoCom noted that it continued to plan for a region-wide OVS, as set forth in its FCC Form 1275 and in its Notice of Intent, but that practical considerations, principally the preference of certain town officials for the franchise rather than OVS model, dictated the pursuit of cable franchises in some communities.<sup>7</sup> However, RCN-BeCoCom noted that “[o]ur goal continues to be implementation of a region-wide OVS service, economics permitting.... While we may choose to proceed in some areas as a Title VI franchisee, any such arrangements will be in aid of, and furtherance of, our long term goal, which remains to operate a regional OVS.”<sup>8</sup> In fact, on December 15, 1997, RCN-BeCoCom signed a cable franchise agreement with Somerville, and RCN-BeCoCom promptly notified the Commission by letter on December 17, 1997 that it wished to remove Somerville from its certificated OVS in the Boston area. Nevertheless, Time Warner’s Reply dwells repeatedly on the circumstances in Somerville and makes various erroneous, illogical and inflammatory arguments. Accordingly, RCN-BeCoCom files this limited Supplemental Answer to respond to these allegations and to enhance the record in this proceeding.<sup>9</sup>

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<sup>4</sup> See, e.g., Time Warner Reply at 41-45.

<sup>5</sup> Time Warner Complaint at 16.

<sup>6</sup> RCN-BeCoCom Answer, Exhibit A at 4.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Time Warner’s Reply, requiring 46 pages of text, is almost 50% longer than its initial Complaint. While this may not explicitly violate any Commission rule, it surely raises

## **II. Supplemental Answer**

### **A. RCN-BeCoCom's Cable Franchise in Somerville Is Fully Consistent With Its Representations To the Commission and With Its Status As An OVS Operator In the Boston Metropolitan Area**

3. It is hardly surprising that Time Warner focuses so much attention on RCN-BeCoCom's local franchise in Somerville since Time Warner has enjoyed monopoly status in Somerville for many years. Indeed, Somerville's award of a competitive cable franchise is the first such instance in Massachusetts and clearly demonstrates the town's desire for competition to Time Warner's long-standing dominance.

4. The hypocrisy which is endemic to Time Warner's Complaint is nowhere more clear than in the emphasis it places on RCN-BeCoCom's activities in Somerville. In its Answer, RCN-BeCoCom noted that this proceeding involved the first instance in which a competitive local exchange carrier ("CLEC") sought to implement, on a region-wide basis, the Congressional intent reflected in Section 653 of the Communications Act<sup>10</sup> and in the Commission's rules and policies implementing that provision.<sup>11</sup> Notwithstanding Time Warner's assertions that it is entitled to be a video programming provider ("VPP") on RCN-BeCoCom's OVS, what Time Warner truly seeks

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questions of good faith, concerning whether Time Warner intentionally saved certain arguments for a pleading to which RCN-BeCoCom typically could not respond. Nevertheless, RCN-BeCoCom herein will not attempt to refute all of Time Warner's factual or legal errors, but instead will confine this Supplemental Answer to addressing Time Warner's arguments premised on RCN-BeCoCom's franchise agreement with Somerville.

<sup>10</sup> 47 U.S.C. § 573.

<sup>11</sup> See, e.g., *Second Report and Order*, Implementation of Section 302 of the Telecommunications Act of 1996; Open Video Systems, CS Docket No. 96-46, 11 FCC Rcd 18223, 18227, ¶ 3 (1996).

is not carriage but competitively sensitive data about RCN-BeCoCom's OVS system. Time Warner thus urges the Commission throughout its Complaint and Reply to decertify or otherwise cripple RCN-BeCoCom's OVS,<sup>12</sup> relief which, if granted, would deny Time Warner the opportunity it claims to be seeking, *i.e.* to be a VPP on the RCN-BeCoCom OVS. In this light, all of Time Warner's claims and arguments must be evaluated as the anti-competitive efforts they truly are, rather than as sincere efforts to achieve carriage on the OVS.

**1. RCN-BeCoCom's Local Franchise in Somerville Is Fully Compatible With Its OVS Status**

5. The fact that RCN-BeCoCom has signed a cable franchise agreement with the town of Somerville does not in any way diminish the legality or the legitimacy of its status as an OVS certificate holder. There is nothing in Section 653 of the Communications Act<sup>13</sup> or in the Commission's OVS rules or policies which preclude an entity having different status in adjoining franchise areas or altering its status from time-to-time. Indeed, this flexibility is specifically contemplated in Section 76.1501 of the Commission's rules which permits a cable operator to provide OVS service within its service area if it is subject to effective competition or if it is consistent with the public interest, convenience, and necessity.<sup>14</sup> The OVS concept is new and largely untested and the system RCN-BeCoCom is constructing in the Boston area is the first such region-wide system proposed by a competitive local exchange carrier. As RCN-BeCoCom explained in its Answer, while it continues to plan the implementation of a region-wide OVS, it also

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<sup>12</sup> See, *e.g.*, Time Warner Complaint at 21; Time Warner Reply at 31-35.

<sup>13</sup> 47 U.S.C. Section 573.

<sup>14</sup> 47 C.F.R. §§ 76.1501.

recognizes that the prudent business exigencies make it necessary to proceed in certain communities in the traditional franchise format.<sup>15</sup> Until the Commission, OVS operators, and cable customers can acquire a reasonable amount of experience with the OVS alternative, it would be unwise and premature for the Commission to conclude that an OVS operator cannot, where it deems it prudent to do so, change its status from OVS operator to franchisee in one or another area of its certificated OVS territory.

6. As described in the Answer, RCN-BeCoCom decided to explore local cable franchises in certain municipalities because local officials are more familiar with the franchised cable model as compared with OVS and because they perceive the former as providing for more control and input.<sup>16</sup> In this light, Time Warner's complaints about RCN-BeCoCom's franchised status in Somerville and its franchise discussions with other local authorities are particularly disingenuous if the preference of town authorities for the franchised cable model is the result of pressure from Time Warner and other incumbent franchisees who fear that RCN-BeCoCom, if not subject to the identical obligations of a franchised operator, may be a more formidable competitor. According to the Boston Globe, the RCN-BeCoCom license in Somerville

is expected to be scrutinized closely by both Time Warner and the rest of the state's cable operators. The cable operators fear municipalities, in their eagerness to promote competition, will allow RCN and any other competitor that emerges to avoid paying many of the fees the operators had to pay when they signed their licenses.<sup>17</sup>

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<sup>15</sup> RCN-BeCoCom Answer, Exhibit A at 4.

<sup>16</sup> *Id.*

<sup>17</sup> Boston Globe, Metro Region (December 16, 1997) (1997 WL 6285534).

It would be naive to believe that Time Warner has not actively pressed the Somerville authorities to push RCN-BeCoCom towards a status involving burdens identical to those of Time Warner, *i.e.*, as a franchise holder. Nick Leuci, Time Warner's Vice President of Government and Community Relations, is reported to have said that "[t]he level playing field issue is pretty important to us."<sup>18</sup>

7. In any case, RCN-BeCoCom has done nothing in Somerville, nor is considering doing in any other community within its OVS region, which is inconsistent with its OVS status.<sup>19</sup> RCN-BeCoCom, by actively pursuing competitive service in Somerville, is advancing the important public interest objective of providing facilitates-based competition to Time Warner. Certainly RCN-BeCoCom's franchise application in the Town of Wakefield, Massachusetts, a community which has never been part of the OVS, will provide meaningful competition for the first time. As noted in the Boston Globe,<sup>20</sup> Time Warner will implement cable rate increases that average 10% in the Boston area. Not coincidentally, however, these increases will not apply in Somerville because of RCN-BeCoCom's competitive presence. Under these circumstances, the Commission should be smoothing the path for operators like RCN-BeCoCom, rather than allowing reluctant competitors

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<sup>18</sup> *Id.*, p. 2.

<sup>19</sup> Time Warner apparently believes that RCN-BeCoCom has no right to exercise any business judgment in the roll-out of its OVS system, either in timing or geography. Indeed, it claims that RCN-BeCoCom is pursuing a "cynical strategy" to "skim the cream," the latter quotation from an article in *Forbes*. The article, which Time Warner mischaracterizes but has appended to its Answer, merely notes that RCN-BeCoCom's management will seek out the best circumstances, arrangements and areas in which to establish its service. One can only assume that Time Warner's dramatic success over the years results from its consideration of the same factors.

<sup>20</sup> Boston Globe, Metro Region (November 26, 1997.) See also Boston Globe, Metro Region (December 17, 1997), attached hereto as Exhibits 1 and 2, respectfully.

to put obstacles in its path.

## **2. RCN-BeCoCom's Activities Reflect No Lack of Candor**

8. Time Warner alleges that RCN-BeCoCom's franchise discussions, and its consummation of a franchise agreement in Somerville, amount to a lack of candor and an attempt to mislead the Commission.<sup>21</sup> There is no merit in such an allegation. RCN-BeCoCom neither affirmatively misled the Commission nor has it failed to meet all disclosure obligations. Time Warner's reliance on 47 C.F.R. § 1.65 and WADECO, Inc. v. FCC<sup>22</sup> is totally inapposite. Section 1.65 by its terms plainly applies only to pending applications, not to licensees whose grants of authority are final. The WADECO case not only turned on the provisions of section 1.65 but involved an applicant who continued to rely on a financing source which it knew to be invalid.<sup>23</sup> Here, RCN-BeCoCom, as it explained in its Answer, initially anticipated that the market would support a regional OVS system but later concluded that a mixture of OVS and franchise arrangements was more practical and realistic.<sup>24</sup> As noted, RCN-BeCoCom promptly notified the Commission of the Somerville franchise agreement and withdrew Somerville from the OVS.

9. Time Warner's reliance on the *Second Report and Order* in this proceeding also fails to support its arguments.<sup>25</sup> As Time Warner notes, the Commission in the *Second Report and Order*

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<sup>21</sup> Time Warner Reply at 41-45.

<sup>22</sup> 628 F.2d 122 (D.C. Cir. 1980).

<sup>23</sup> *Id.* at 126-128.

<sup>24</sup> RCN-BeCoCom Answer, Exhibit A at 3-5.

<sup>25</sup> In the Matter of Implementation of Section 302 of the Telecommunications Act of 1996, CS Docket No. 96-46, 11 FCC Rcd 18223 (1996) ("*Second Report and Order*").

observed that if a representation contained in a certification filing is materially false or inaccurate, the Commission retains the authority to revoke an OVS certification or impose other penalties.<sup>26</sup> RCN-BeCoCom's FCC Form 1275 sought certification for an open video system encompassing a total of 48 communities; nowhere was RCN-BeCoCom required to forswear pursuing franchise arrangements in any of those communities as economic and regulatory circumstances might dictate. Given the newness of the OVS vehicle for establishing facilities-based competition, it would take a very brave entrepreneur to commit hundreds of millions of dollars to construction of a region-wide OVS without being able to consider proceeding pursuant to franchise in parts of the region. As RCN-BeCoCom has noted, discussions continue with certain municipalities within the OVS region concerning the possibility of signing franchise agreements, while in Boston and two other communities, OVS service or preparations for OVS service are well underway.<sup>27</sup> It is legally irrelevant that RCN-BeCoCom is not constructing the OVS fast enough to suit Time Warner, which continues to assume that OVS infrastructure should spring full-blown from the head of Zeus the day after the enrollment period has ended. Plain common sense should be sufficient to recognize that a massive undertaking such as that proposed by RCN-BeCoCom in the Boston area reasonably will take years to fully achieve.

10. Time Warner also contends that the Cable Services Bureau decision in Wedgewood Communications Company<sup>28</sup> is relevant to RCN-BeCoCom's decision to operate as a cable franchise

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<sup>26</sup> *Second Report and Order*, 11 FCC Rcd at 18247.

<sup>27</sup> *See* RCN-BeCoCom Answer, Exhibit A at 3-4.

<sup>28</sup> DA 97-2438 (released November 20, 1997).

holder in Somerville. The Wedgewood case, however, is readily distinguishable from the instant matter. There, a dispute existed between the OVS applicant and the local franchising authority as to whether the applicant was a franchise holder or was operating illegally within the franchising authority's jurisdiction. Under such circumstances, the Bureau concluded that unresolvable questions as to Wedgewood's status and the possibility that it was using its OVS application to pressure the franchise authority made the issuance of an OVS certificate unwise. In this case, by contrast, the city of Somerville welcomed RCN-BeCoCom as a competitive franchisee and there is no dispute about its status, nor has RCN-BeCoCom used its OVS certification improperly to pressure any franchise authorities, as alleged in Wedgewood.

**B. RCN-BECOCOM'S FRANCHISEE STATUS IN SOMERVILLE IS FULLY CONSISTENT WITH RCN-BECOCOM'S INTERPRETATION OF SECTION 76.1503 OF THE RULES**

11. Given the limited nature of this Supplemental Answer, RCN-BeCoCom will not reargue herein the question whether Time Warner, as an in-region cable operator, is entitled to the requested proprietary information about RCN-BeCoCom's OVS. In one respect, however, Time Warner makes a new argument which is directly based on RCN-BeCoCom's franchise agreement with Somerville. It contends that RCN-BeCoCom's franchisee status in Somerville somehow undercuts its position that Time Warner, as an in-region cable operator, is not entitled to carriage on RCN-BeCoCom's OVS, even in those communities where Time Warner is not the franchised cable operator.<sup>29</sup> Time Warner contends that if RCN-BeCoCom's interpretation of Section 76.1503(c)(2)(V) is correct, then RCN-BeCoCom itself, as a franchised cable operator in Somerville,

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<sup>29</sup> Time Warner Reply at 43.

would not be eligible to provide programming on any other portion of its OVS.<sup>30</sup> This is simply erroneous since RCN-BeCoCom withdrew its OVS certification for Somerville shortly after it was awarded a franchise. Somerville therefore no longer is included within the OVS region and RCN-BeCoCom's Somerville cable system will not be an "in-region, competing" cable operator to the OVS system, as is Time Warner in some 12 communities. Moreover, it is noteworthy that, if RCN-BeCoCom had wished to retain its OVS status in Somerville, it could have done so pursuant to section 76.1501 of the Commission's rules, because in that community RCN-BeCoCom's cable system will be subject to effective competition.<sup>31</sup>

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<sup>30</sup> *Id.*

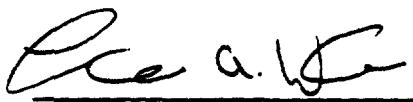
<sup>31</sup> 47 C.F.R. § 76.1501.

## CONCLUSION

The RCN-BeCoCom OVS certification application, as one of the first of its kind and one of the most ambitious, was filed in all good faith and with every intention to build the system as described. Withdrawing Somerville from the OVS certification does not in any way prove the contrary. It is a leap to conclude that if RCN-BeCoCom's plans deviate in any significant way from the initial filing it must be due to some willful, conscious and calculated effort to mislead the Commission. Simply put, the Boston region OVS is a work in progress. RCN-BeCoCom remains committed to OVS and the Commission should allow RCN-BeCoCom considerable latitude to develop the system as prudent business considerations dictate. In the event that RCN-BeCoCom enters any more franchise agreements, it will advise the Commission promptly, as it did in the case of Somerville.

Respectfully submitted,

RCN-BeCoCom, L.L.C.

By:   
Warren Anthony Fitch  
William L. Fishman  
Lawrence A. Walke  
SWIDLER & BERLIN, CHTD.  
3000 K Street, N.W.  
Washington, D.C. 20007  
(202) 424-7500

Its Attorneys

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## **EXHIBIT 1**

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Wednesday, November 26, 1997

#### METRO/REGION

Increases set for 1998 cable rates Hikes at two companies to average more than  
10%  
Bruce Mohl, Globe Staff

MediaOne and Time Warner yesterday announced plans to increase their rates for standard cable television service an average of more than 10 percent next year, while Cablevision said it planned to raise its standard service rates in Boston and Brookline by 2.5 percent.

The only sign that impending competition is having any major impact on rates was in Somerville, where Residential Communications Network is preparing to compete head-to-head with incumbent operator Time Warner. Time Warner said it plans to exempt Somerville from its 10 percent price increase on Jan. 1 and, instead, will develop a new programming and pricing strategy there.

"We're looking at a whole new competitive pricing system," said Nick Leuci, Time Warner's vice president of government and community relations. "We're all facing how we deal in a competitive environment for the first time."

RCN spokesman James Maiella said the cable operators may be trying to pad their pockets before competition arrives.

"They should make all the money they can now because it's only a matter of time before RCN comes in and takes all their customers away," he said.

All three companies said the rising cost of programming and heavy investments in upgrading their cable systems necessitated the price increases. All three also tried to soften the blow by announcing plans to add more channels.

MediaOne, which serves 47 percent of the state's 1.8 million cable customers, said the price of its standard service on average will rise from \$26.41 a month to \$29.96, or 13 percent. It was Media One's third major price increase in as many years.

The actual price increase will vary from community to community. Milton customers, for example, will see their standard service rates  
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jump 14.7 percent, to \$32.05. Rates in Quincy will go up 13.6 percent to \$30.43, while rates in Needham will go up 13.9 percent to \$28.90, and rates in Watertown will rise 14.9 percent to \$27.54.

Rick Jenkinson, MediaOne's spokesman, said the average customer will see overall charges go up by about 10 percent. He also said the company is adding three channels to its standard package. They include the Disney Channel, which currently costs \$10.95 a month; Classic Sports Network, which currently cost 95 cents a month; and the new Animal Planet channel.

Leuci said Time Warner's standard service on average will increase \$2.66 to \$29.46, or 10 percent. He said three channels -- the Cartoon Network, Animal Planet and Fox News -- are being added to the standard service package. Basic cable service in most communities will drop slightly, he added.

In explaining the price hike, Leuci said programming costs just for Time Warner's basic and standard service packages are expected to increase 17 percent next year.

Cablevision's rate increase, by contrast, was relatively low. Spokeswoman P.A. Carr said the cost of Optimum service, the company's equivalent of standard service, will increase just 73 cents to \$29.60, or 2.5 percent. Overall, she said, charges should increase for all Cablevision products an average of 3.5 percent next year.

John Patrone, a commissioner of the Department of Telecommunications and Energy, said many of the companies are in a no-win situation now. They have to upgrade their systems but need rate increases to pay for those system upgrades.

----- INDEX REFERENCES -----

COMPANY (TICKER): TIME WARNER INC. (TWX)

NEWS SUBJECT: World Equity Index; High-Yield Issuers (WEI HIY)

INDUSTRY: All Entertainment & Leisure; Media; Film, Television & Music; Recreational Products & Services; Publishing (ENT MOV REC PUB)

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Wednesday, December 17, 1997

METRO/REGION

Competition called key to cable Firm expects Somerville rivalry will lead to lower prices  
Bruce Mohl, Globe Staff

SOMERVILLE -- The top official at Residential Communications Network said yesterday that cable television competition will end up enlarging the market, boosting cable penetration to more than 90 percent of a community's households.

David McCourt, RCN's chairman and chief executive officer, said competition between his company and Time Warner in Somerville will lead to better service and lower prices and end up drawing more people to cable. In most communities, 60 to 70 percent of households take cable.

After issuing a license to RCN yesterday, Somerville Mayor Michael Capuano predicted competition would benefit both consumers and the companies. He said there is plenty of money to be made by both companies.

"Regulated monopolies don't work," he said. "Everyone knows they don't work. They're un-American."

Competition is already having an impact here. Time Warner said last month it plans to increase its standard service rates an average of 10 percent on Jan. 1. But in Somerville, Time Warner isn't raising rates and developing a new pricing system.

McCourt said Time Warner's announcement means the company is using its monopoly rates in other communities to subsidize its bid to remain competitive in Somerville.

He said RCN's full basic cable service offers 78 channels for \$24.95, while Time Warner's standard service offers 50 channels for \$26.98.

RCN sells cable, Internet, and local and long-distance phone service. McCourt indicated the company's low prices are dependent on selling customers a combination of services. "If we were just in the cable business, we wouldn't be making any money," he said.

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Supplemental Answer of RCN-BeCoCom, L.L.C. To Open Video System Complaint was delivered by hand or first-class mail, postage prepaid, on this 16th day of January, 1998, to the following parties:

Magalie Roman Salas\*  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Carol A. Hevey  
Time Warner Cable  
Cable Division of Greater Boston  
300 Commercial Street, Suite 12  
Malden, MA 02148

Meredith Jones, Esq.\*  
Chief  
Cable Services Bureau  
Federal Communications Commission  
2033 M Street, N.W., Room 918  
Washington, D.C. 20554

Arthur H. Harding, Esq.  
Fleischman and Walsh, L.L.P.  
1400 Sixteenth Street, N.W.  
Washington, D.C. 20036

John Logan, Esq.\*  
Deputy Chief  
Cable Services Bureau  
Federal Communications Commission  
2033 M Street, N.W., Room 918  
Washington, D.C. 20554

Donna N. Lampert  
James J. Valentino  
Fernando R. Laguarda  
Mintz, Levin, Cohn, Ferris, Glovsky and  
Popeo, P.C.  
701 Pennsylvania Avenue, N.W.  
Suite 900  
Washington, D.C. 20004

Debra Klein, Esq.\*  
Cable Services Bureau  
Federal Communications Commission  
2033 M Street, N.W., Room 918  
Washington, D.C. 20554

Steve Broeckaert, Esq.\*  
Attorney Advisor  
Cable Services Bureau  
Federal Communications Commission  
2033 M Street, N.W., Room 918  
Washington, D.C. 20554

  
Barbara J. Miles

\*Via Hand Delivery